

JOURNAL OF THE SENATE

FIRST REGULAR SESSION

FIRST EXTRA SESSION

FOURTH DAY—FRIDAY, SEPTEMBER 9, 2005

The Senate met pursuant to adjournment.

Senator Bartle in the Chair.

Senator Bartle offered the following prayer:

Lord, we are tired. It is 12:01 a.m. Yet, we have work to do. Please give us energy and wisdom. Lord, please watch over all of the families whose lives are in a tumult. Heal our land. In Jesus' Name I pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The President called for the reading of the Journal for Thursday, September 8, 2005.

Senator Shields moved that further reading of the Journal be dispensed with and the same be approved as having been fully read.

Senator Green requested a roll call vote be taken on the above motion and was joined in his request by Senators Callahan, Coleman, Days and Graham.

Senator Shields motion was adopted by the following vote:

YEAS—Senators

Alter	Bartle	Bray	Cauthorn
Champion	Clemens	Coleman	Crowell
Dolan	Engler	Gibbons	Griesheimer

Gross	Klindt	Koster	Loudon
Mayer	Nodler	Purgason	Ridgeway
Scott	Shields	Stouffer	Vogel
Wheeler	Wilson—26		

NAYS—Senators

Barnitz	Callahan	Days	Graham
Green	Kennedy—6		

Absent—Senators—None

Absent with leave—Senator Dougherty—1

Vacancies—1

The following Senators were present during the day's proceedings:

Present—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dolan
Engler	Gibbons	Graham	Green
Griesheimer	Gross	Kennedy	Klindt
Koster	Loudon	Mayer	Nodler
Purgason	Ridgeway	Scott	Shields
Stouffer	Vogel	Wheeler	Wilson—32

Absent—Senators—None

Absent with leave—Senator Dougherty—1

Vacancies—1

SENATE BILLS FOR PERFECTION

Senator Crowell moved that **SB 4** be taken up for perfection, which motion prevailed.

Senator Crowell offered **SS** for **SB 4**, entitled:

SENATE SUBSTITUTE FOR SENATE BILL NO. 4

An Act to repeal section 287.110 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 1 & 130 and approved by the governor on March 30, 2005, and to enact in lieu thereof two new sections relating to the applicability of workers' compensation law, with an emergency clause.

Senator Crowell moved that **SS** for **SB 4** be adopted.

Senator Green raised the point of order that **SS** for **SB 4** is out of order as it goes beyond the special session call issued by the Governor.

The point of order was referred to the President Pro Tem.

Senator Shields assumed the Chair.

Senator Bartle assumed the Chair.

At the request of Senator Crowell, **SS** for **SB 4** was withdrawn rendering the point of order moot.

SB 4 was again taken up.

Senator Callahan offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 4, Page 1, Section A, Line 6, by inserting immediately after said line the following:

"287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of

corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner, as defined in subsection 43 of section 301.010, RSMo, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the Missouri department of transportation or by the United States Department of Transportation, or any of its subagencies.

2. The word "accident" as used in this chapter shall mean an unexpected **or unforeseen identifiable event or series of events happening suddenly and violently, with or without human fault**, [traumatic event or unusual strain identifiable by time and place of occurrence] and producing at the time objective symptoms of an injury [caused by a specific event during a single work shift]. An injury is not compensable because work was a triggering or precipitating factor.

3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. "The prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability.

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the **employment** [accident] is the prevailing factor in causing the

injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life;

(3) [An injury resulting directly or indirectly from idiopathic causes is not compensable;

(4)] A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition;

(5) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

4. "Death" when mentioned as a basis for the right to compensation means only death resulting from such violence and its resultant effects occurring within three hundred weeks after the accident; except that in cases of occupational disease, the limitation of three hundred weeks shall not be applicable.

5. Injuries sustained in company-owned or subsidized automobiles in accidents that occur while traveling from the employee's home to the employer's principal place of business or from the employer's principal place of business to the employee's home are not compensable. The "extension of premises" doctrine is abrogated to the extent it extends liability for accidents that

occur on property not owned or controlled by the employer even if the accident occurs on customary, approved, permitted, usual or accepted routes used by the employee to get to and from their place of employment.

6. The term "total disability" as used in this chapter shall mean inability to return to any employment and not merely mean inability to return to the employment in which the employee was engaged at the time of the accident.

7. As used in this chapter and all acts amendatory thereof, the term "commission" shall hereafter be construed as meaning and referring exclusively to the labor and industrial relations commission of Missouri, and the term "director" shall hereafter be construed as meaning the director of the department of insurance of the state of Missouri or such agency of government as shall exercise the powers and duties now conferred and imposed upon the department of insurance of the state of Missouri.

8. The term "division" as used in this chapter means the division of workers' compensation of the department of labor and industrial relations of the state of Missouri.

9. For the purposes of this chapter, the term "minor" means a person who has not attained the age of eighteen years; except that, for the purpose of computing the compensation provided for in this chapter, the provisions of section 287.250 shall control.

10. In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning of or definition of "accident", "occupational disease", "arising out of", and "in the course of the employment" to include, but not be limited to, holdings in: *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or following those cases."

And further amend page 2, section 287.110, line 11

by inserting immediately after said line the following:

“287.140. 1. In addition to all other compensation paid to the employee under this section, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury. If the employee desires, he shall have the right to select his own physician, surgeon, or other such requirement at [his own] **the employer's** expense, **provided the employee provides notice to the employer of such selection prior to the beginning of treatment.** Where the requirements are furnished by a public hospital or other institution, payment therefor shall be made to the proper authorities. [Regardless of whether the health care provider is selected by the employer or is selected by the employee at the employee's expense, the] **The** health care provider shall have the affirmative duty to communicate fully with the employee regarding the nature of the employee's injury and recommended treatment exclusive of any evaluation for a permanent disability rating. Failure to perform such duty to communicate shall constitute a disciplinary violation by the provider subject to the provisions of chapter 620, RSMo. When an employee [is required to submit] **submits** to medical examinations or necessary medical treatment **provided by the employer and not selected by the employee** at a place outside of the local or metropolitan area from the employee's principal place of **injury or the place of his residence** [employment], the employer or its insurer shall advance or reimburse the employee for all necessary and reasonable expenses; except that an injured employee who resides outside the state of Missouri and who is employed by an employer located in Missouri shall have the option of selecting the location of services provided in this section either at a location within one hundred miles of the injured employee's residence, place of injury or place of hire by the employer. [The

choice of provider within the location selected shall continue to be made by the employer.] In case of a medical examination if a dispute arises as to what expenses shall be paid by the employer, the matter shall be presented to the legal advisor, the administrative law judge or the commission, who shall set the sum to be paid and same shall be paid by the employer prior to the medical examination. In no event, however, shall the employer or its insurer be required to pay transportation costs for a greater distance than two hundred fifty miles each way from place of treatment. **In addition to all other payments authorized or mandated under this subsection, when an employee who has returned to full-time employment is required to submit to a medical examination for the purpose of evaluating permanent disability, or to undergo physical rehabilitation, the employer or its insurer shall pay a proportionate weekly compensation benefit based on the provisions of section 287.180 for such wages that are lost due to time spent undergoing such medical examinations or physical rehabilitation, except that where the employee is undergoing physical rehabilitation, such proportionate weekly compensation benefit payment shall be limited to a time period of no more than twenty weeks. For purposes of this subsection only, "physical rehabilitation" shall mean the restoration of the seriously injured person as soon as possible and as nearly as possible to a condition of self-support and maintenance as an able-bodied worker. Determination as to what care and restoration constitutes physical rehabilitation shall be the sole province of the treating physician. Should the employer or its insurer contest the determination of the treating physician, then the director shall review the case at question and issue his determination. Such determination by the director shall be appealable like any other finding of the director or the division. Serious injury includes, but is not limited to, quadriplegia, paraplegia, amputations of hand, arm, foot or leg, atrophy due to nerve injury or nonuse, and back injuries**

not amenable alone to recognized medical and surgical procedures.

2. If it be shown to the division or the commission that the requirements are being furnished in such manner that there is reasonable ground for believing that the life, health, or recovery of the employee is endangered thereby, the division or the commission may order a change in the physician, surgeon, hospital or other requirement.

3. All fees and charges under this chapter shall be fair and reasonable, shall be subject to regulation by the division or the commission, or the board of rehabilitation in rehabilitation cases. A health care provider shall not charge a fee for treatment and care which is governed by the provisions of this chapter greater than the usual and customary fee the provider receives for the same treatment or service when the payor for such treatment or service is a private individual or a private health insurance carrier. The division or the commission, or the board of rehabilitation in rehabilitation cases, shall also have jurisdiction to hear and determine all disputes as to such charges. A health care provider is bound by the determination upon the reasonableness of health care bills.

4. The division shall, by regulation, establish methods to resolve disputes concerning the reasonableness of medical charges, services, or aids. This regulation shall govern resolution of disputes between employers and medical providers over fees charged, whether or not paid, and shall be in lieu of any other administrative procedure under this chapter. The employee shall not be a party to a dispute over medical charges, nor shall the employee's recovery in any way be jeopardized because of such dispute.

5. No compensation shall be payable for the death or disability of an employee, if and insofar as the death or disability may be caused, continued or aggravated by any unreasonable refusal to submit to any medical or surgical treatment or operation, the risk of which is, in the opinion of the division or the commission, inconsiderable in view of the seriousness of the injury. If the employee dies as a

result of an operation made necessary by the injury, the death shall be deemed to be caused by the injury.

6. The testimony of any physician or chiropractic physician who treated the employee shall be admissible in evidence in any proceedings for compensation under this chapter, subject to all of the provisions of section 287.210.

7. Every hospital or other person furnishing the employee with medical aid shall permit its record to be copied by and shall furnish full information to the division or the commission, the employer, the employee or his dependents and any other party to any proceedings for compensation under this chapter, and certified copies of the records shall be admissible in evidence in any such proceedings.

8. The employer may be required by the division or the commission to furnish an injured employee with artificial legs, arms, hands, surgical orthopedic joints, or eyes, or braces, as needed, for life whenever the division or the commission shall find that the injured employee may be partially or wholly relieved of the effects of a permanent injury by the use thereof. The director of the division shall establish a procedure whereby a claim for compensation may be reactivated after settlement of such claim is completed. The claim shall be reactivated only after the claimant can show good cause for the reactivation of this claim and the claim shall be made only for the payment of medical procedures involving life-threatening surgical procedures or if the claimant requires the use of a new, or the modification, alteration or exchange of an existing, prosthetic device. For the purpose of this subsection, "life threatening" shall mean a situation or condition which, if not treated immediately, will likely result in the death of the injured worker.

9. Nothing in this chapter shall prevent an employee being provided treatment for his injuries by prayer or spiritual means if the employer does not object to the treatment.

10. The employer shall have the right to select the licensed treating physician, surgeon, chiropractic

physician, or other health care provider; provided, however, that such physicians, surgeons or other health care providers shall offer only those services authorized within the scope of their licenses. For the purpose of this subsection, subsection 2 of section 287.030 shall not apply.

11. Any physician or other health care provider who orders, directs or refers a patient for treatment, testing, therapy or rehabilitation at any institution or facility shall, at or prior to the time of the referral, disclose in writing if such health care provider, any of his partners or his employer has a financial interest in the institution or facility to which the patient is being referred, to the following:

- (1) The patient;
- (2) The employer of the patient with workers' compensation liability for the injury or disease being treated;
- (3) The workers' compensation insurer of such employer; and
- (4) The workers' compensation adjusting company for such insurer.

12. Violation of subsection 11 of this section is a class A misdemeanor.

13. (1) No hospital, physician or other health care provider, other than a hospital, physician or health care provider selected by the employee at his own expense pursuant to subsection 1 of this section, shall bill or attempt to collect any fee or any portion of a fee for services rendered to an employee due to a work-related injury or report to any credit reporting agency any failure of the employee to make such payment, when an injury covered by this chapter has occurred and such hospital, physician or health care provider has received actual notice given in writing by the employee, the employer or the employer's insurer. Actual notice shall be deemed received by the hospital, physician or health care provider five days after mailing by certified mail by the employer or insurer to the hospital, physician or health care provider.

(2) The notice shall include:

- (a) The name of the employer;
- (b) The name of the insurer, if known;
- (c) The name of the employee receiving the services;
- (d) The general nature of the injury, if known; and
- (e) Where a claim has been filed, the claim number, if known.

(3) When an injury is found to be noncompensable under this chapter, the hospital, physician or other health care provider shall be entitled to pursue the employee for any unpaid portion of the fee or other charges for authorized services provided to the employee. Any applicable statute of limitations for an action for such fees or other charges shall be tolled from the time notice is given to the division by a hospital, physician or other health care provider pursuant to subdivision (6) of this subsection, until a determination of noncompensability in regard to the injury which is the basis of such services is made, or in the event there is an appeal to the labor and industrial relations commission, until a decision is rendered by that commission.

(4) If a hospital, physician or other health care provider or a debt collector on behalf of such hospital, physician or other health care provider pursues any action to collect from an employee after such notice is properly given, the employee shall have a cause of action against the hospital, physician or other health care provider for actual damages sustained plus up to one thousand dollars in additional damages, costs and reasonable attorney's fees.

(5) If an employer or insurer fails to make payment for authorized services provided to the employee by a hospital, physician or other health care provider pursuant to this chapter, the hospital, physician or other health care provider may proceed pursuant to subsection 4 of this section with a dispute against the employer or insurer for any fees or other charges for services provided.

(6) A hospital, physician or other health care

provider whose services have been authorized in advance by the employer or insurer may give notice to the division of any claim for fees or other charges for services provided for a work-related injury that is covered by this chapter, with copies of the notice to the employee, employer and the employer's insurer. Where such notice has been filed, the administrative law judge may order direct payment from the proceeds of any settlement or award to the hospital, physician or other health care provider for such fees as are determined by the division. The notice shall be on a form prescribed by the division.

[14. The employer may allow or require an employee to use any of the employee's accumulated paid leave, personal leave, or medical or sick leave to attend to medical treatment, physical rehabilitation, or medical evaluations during work time. The intent of this subsection is to specifically supercede and abrogate any case law that contradicts the express language of this section.]

287.190. 1. For permanent partial disability, which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with sections 287.170 and 287.180, respectively, the employer shall pay to the employee compensation computed at the weekly rate of compensation in effect under subsection 5 of this section on the date of the injury for which compensation is being made, which compensation shall be allowed for loss by severance, total loss of use, or proportionate loss of use of one or more of the members mentioned in the schedule of losses.

SCHEDULE OF LOSSES

	Weeks
(1) Loss of arm at shoulder	232
(2) Loss of arm between shoulder and elbow ...	222
(3) Loss of arm at elbow joint	210
(4) Loss of arm between elbow and wrist	200
(5) Loss of hand at the wrist joint	175
(6) Loss of thumb at proximal joint	60
(7) Loss of thumb at distal joint	45
(8) Loss of index finger at proximal joint	45
(9) Loss of index finger at second joint	35

(10) Loss of index finger at distal joint	30
(11) Loss of either the middle or ring finger at the proximal joint	35
(12) Loss of either the middle or ring finger at second joint	30
(13) Loss of either the middle or ring finger at the distal joint	26
(14) Loss of little finger at proximal joint	22
(15) Loss of little finger at second joint	20
(16) Loss of little finger at distal joint	16
(17) Loss of one leg at the hip joint or so near thereto as to preclude the use of artificial limb	207
(18) Loss of one leg at or above the knee, where the stump remains sufficient to permit the use of artificial limb.....	160
(19) Loss of one leg at or above ankle and below knee joint	155
(20) Loss of one foot in tarsus	150
(21) Loss of one foot in metatarsus	110
(22) Loss of great toe of one foot at proximal joint ...	40
(23) Loss of great toe of one foot at distal joint	22
(24) Loss of any other toe at proximal joint	14
(25) Loss of any other toe at second joint	10
(26) Loss of any other toe at distal joint	8
(27) Complete deafness of both ears	180
(28) Complete deafness of one ear, the other being normal.....	49
(29) Complete loss of the sight of one eye	140

2. If the disability suffered in any of items (1) through (29) of the schedule of losses is total by reason of severance or complete loss of use thereof the number of weeks of compensation allowed in the schedule for such disability shall be increased by ten percent.

3. For permanent injuries other than those specified in the schedule of losses, the compensation shall be paid for such periods as are proportionate to the relation which the other injury bears to the injuries above specified, but no period shall exceed four hundred weeks, at the rates fixed in subsection 1. The other injuries shall include permanent injuries causing a loss of earning power. For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe or phalange, compensation shall be paid for the proportionate loss of the use of

the arm, hand, thumb, finger, leg, foot, toe or phalange, as provided in the schedule of losses.

4. If an employee is seriously and permanently disfigured about the head, neck, hands or arms, the division or commission may allow such additional sum for the compensation on account thereof as it may deem just, but the sum shall not exceed forty weeks of compensation. If both the employer and employee agree, the administrative law judge may utilize a photograph of the disfigurement in determining the amount of such additional sum.

5. The amount of compensation to be paid under subsection 1 of this section shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to forty-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to fifty percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, but before August 28, 1992, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to fifty-two percent of the state average weekly

wage;

(5) For all injuries occurring on or after August 28, 1992, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to fifty-five percent of the state average weekly wage.

6. (1) "Permanent partial disability" means a disability that is permanent in nature and partial in degree, and when payment therefor has been made in accordance with a settlement approved either by an administrative law judge or by the labor and industrial relations commission, a rating established by medical finding, certified by a physician, and approved by an administrative law judge or legal advisor, or an award by an administrative law judge or the commission, the percentage of disability shall be conclusively presumed to continue undiminished whenever a subsequent injury to the same member or same part of the body also results in permanent partial disability for which compensation under this chapter may be due; provided, however, the presumption shall apply only to compensable injuries which may occur after August 29, 1959;

(2) Permanent partial disability or permanent total disability shall be demonstrated and certified by a physician. Medical opinions addressing compensability and disability shall be stated within a reasonable degree of medical certainty. [In determining compensability and disability, where inconsistent or conflicting medical opinions exist, objective medical findings shall prevail over subjective medical findings. Objective medical findings are those findings demonstrable on physical examination or by appropriate tests or diagnostic procedures;

(3) Any award of compensation shall be reduced by an amount proportional to the permanent partial disability determined to be a preexisting disease or condition or attributed to the natural process of aging sufficient to cause or prolong the disability

or need of treatment.]

287.215. No statement in writing made or given by an injured employee, whether taken and transcribed by a stenographer, signed or unsigned by the injured employee, or any statement which is mechanically or electronically recorded, or taken in writing by another person, or otherwise preserved, shall be admissible in evidence, used or referred to in any manner at any hearing or action to recover benefits under this law unless a copy thereof is given or furnished the employee, or his dependents in case of death, or their attorney, within thirty days after written request for it by the injured employee, his dependents in case of death, or by their attorney. The request shall be directed to the employer or its insurer by certified mail. [The term "statement" as used in this section shall not include a videotape, motion picture, or visual reproduction of an image of an employee.]

287.420. No proceedings for compensation for any accident under this chapter shall be maintained unless written notice of the time, place and nature of the injury, and the name and address of the person injured[,] has been given to the employer no later than thirty days after the accident, **unless the division or the commission finds that there was good cause for failure to give the notice, or that** [unless] the employer was not prejudiced by failure to receive the notice. **No defect or inaccuracy in the notice shall invalidate it unless the commission finds that the employer was in fact misled and prejudiced thereby.** [No proceedings for compensation for any occupational disease or repetitive trauma under this chapter shall be maintained unless written notice of the time, place, and nature of the injury, and the name and address of the person injured, has been given to the employer no later than thirty days after the diagnosis of the condition unless the employee can prove the employer was not prejudiced by failure to receive the notice.]”

And further amend the title and enacting clause accordingly.

Senator Callahan moved that the above

amendment be adopted.

Senator Shields raised the point of order that **SA 1** is out of order as it goes beyond the special session call issued by the Governor.

The point of order was referred to the President Pro Tem who ruled it well taken.

SB 4 was again taken up.

On motion of Senator Crowell, **SB 4** was declared perfected and ordered printed.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SB 4**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

Senator Shields requested unanimous consent of the Senate to suspend Senate Rule 52 for the purpose of taking **SB 4** up for 3rd reading and final passage, which request was granted.

THIRD READING OF SENATE BILLS

SB 4, introduced by Senators Crowell and Loudon, entitled:

An Act to repeal section 287.110 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 1 & 130 and approved by the governor on March 30, 2005, and to enact in lieu thereof one new section relating to the applicability of workers' compensation law, with an emergency clause.

Was taken up by Senator Crowell.

On motion of Senator Crowell, **SB 4** was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Cauthorn
Champion	Clemens	Crowell	Dolan
Engler	Gibbons	Griesheimer	Gross
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel—23	

NAYS—Senators

Bray	Callahan	Coleman	Days
Graham	Green	Kennedy	Wheeler—8

Absent—Senator Wilson—1

Absent with leave—Senator Dougherty—1

Vacancies—1

The President declared the bill passed.

The emergency clause failed to receive the necessary two-thirds majority by the following vote:

YEAS—Senators

Alter	Bartle	Cauthorn	Champion
Clemens	Crowell	Dolan	Engler
Gibbons	Griesheimer	Gross	Klindt
Koster	Loudon	Mayer	Nodler

Purgason	Ridgeway	Scott	Shields
Stouffer	Vogel—22		

NAYS—Senators

Barnitz	Bray	Callahan	Coleman
Days	Graham	Green	Kennedy
Wheeler—9			

Absent—Senator Wilson—1

Absent with leave—Senator Dougherty—1

Vacancies—1

On motion of Senator Crowell, title to the bill was agreed to.

Senator Crowell moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

On motion of Senator Shields, the Senate adjourned until 4:00 p.m., Tuesday, September 13, 2005.

Journal

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